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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Implementation of Sections 12 and 19 of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 92-265
	)	
Program Access and Pricing	)	

COMMENTS OF
SUPERSTAR CONNECTION

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Superstar Connection hereby submits these comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM"), released December 24, 1992, concerning the implementation of new program access and pricing rules.

I. INTRODUCTION AND SUMMARY

Superstar Connection ("Superstar") uplinks and distributes four superstations and other services by satellite throughout the country. "Superstation" is the term describing a television broadcast station, other than a network station, licensed by the Federal Communications Commission (the "Commission") as a broadcast station, whose signal is transmitted via satellite for point-to-point multipoint distribution throughout the United States. The signal can then be received by properly authorized C-band TVRO satellite dishes. United Video, Inc. ("United Video") sells superstation services to cable operators and to other facilities-based multichannel distributors which own commercial TVRO facilities ("FBOs"); Superstar sells directly to home satellite dish ("HSD") owners possessing residential TVRO earth station facilities. Superstar also sells directly to HSD owners by way of a number of agents and commissioned salesmen, including equipment dealers, equipment distributors, and third party program packagers.[1/]

Because Superstar uplinks and distributes superstations, Superstar is a "satellite broadcast programming vendor" within the meaning of Section 19 of the Cable Television Consumer Protection and Competition Act of 1992 ("1992 Cable Act"), 47 U.S.C. § 628(i)(4).[2/] In these comments, we will refer to Superstar as a "superstation programmer" both for ease of

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1/ United Video (filing comments separately) and Superstar are separate divisions commonly owned by UV Corp. United Video and Superstar together uplink four superstations for sale to facilities-based operators ("FBO"), such as cable, MMDS and SMATV operators as well as directly to HSD consumers. Superstar Connection uplinks and distributes KTLA-TV to the HSD market while United Video uplinks and sells WGN-TV, WPIX-TV, and KTVT-TV to FBOs. Superstar also sells WGN, WPIX and KTVT to HSDs and United Video sells KTLA to FBOs.

2/ Section 19 of the 1992 Cable Act adds a new Section 628 to the Communications Act of 1934, 47 U.S.C. § 628. Throughout these comments we will refer to the program access and pricing provisions as "§ 628." The NPRM also concerns the implementation of Section 12 of the 1992 Cable Act, adding 47 U.S.C. § 616, regulating agreements between cable operators and video programming vendors. Although Superstar is a video programmer within the meaning of that Section, its operations and agreements do not include provisions affected by Section 12 at this time. Accordingly, we will not comment directly upon those provisions, except to the extent that the provisions in Section 12 include terms and provisions that also may be utilized in interpreting Section 19.

reference and to define clearly the fundamental differences between the superstation programming market and other satellite delivered programming services.[3/]

Unless the implementing regulations are properly drawn to reflect the distinctive nature and operations of the various programming markets, the substantive provisions in Section 628 could alter dramatically the relationships between programming vendors, FBOs and HSD distributors by limiting the ability of parties to freely negotiate in a competitive marketplace and favoring a class of programming distributors at the expense of the programming vendors. Section 628(b) generally proscribes "unfair or deceptive" conduct with the specifics to be defined further by the implementing regulations. The "minimum" content of such regulations is set out in § 628(c) of the Act. Some items in § 628(c) are directed at specific business practices, many of which could not be anticompetitive or harmful in any way, and thus should not be prohibited or actionable unless significant and specific harm flowing directly from such practices is demonstrated.

Congress' overriding intent, as expressed in Section 628(a), is to "increase competition and diversity in the

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3/ The Act recognizes that distinction by defining a satellite cable programming vendor as one who uplinks and distributes non-superstation programming. § 628(i)(2).

multichannel video programming market," but most of the provisions to be implemented address what was perceived solely as a problem with vertically integrated programming vendors favoring their affiliated distributors.[4/] In the absence of such favoritism, contractual negotiations should be shaped by marketplace forces -- not micromanaged by inflexible regulation.

The Commission has expressed its general agreement with this principle and has rightly noted that while serving congressional intent to prohibit unfair or anticompetitive actions, the Commission should allow marketplace forces to operate whenever possible. NPRM ¶ 12. Indeed, Congress told the Commission to "rely on the marketplace, to the maximum extent feasible, to achieve" the goal of increasing availability of programming to the public. 1992 Cable Act, § 2(b)(2). Congress also stated its intent to foster the development of technologies competitive to cable. § 628(a). The programming sold by Superstar and United Video is available and marketed to all multichannel video distributors. Indeed, the programming is subscribed to by over 30 million cable SMATV and MMDS subscribers, and almost 800,000 HSDs. It is "available" to every single television household in the country by way of all current technologies serving all types

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4/ House Committee on Energy and Commerce, H.R. Rep. No. 102-628 ("House Report"), 102d Cong., 2d Sess. 41-45 (1992); Senate Committee on Commerce, Science, and Transportation, S. Rep. No. 102-92 ("Senate Report"), 102d Cong., 1st Sess. 24 (1991).

of FBOs as well as HSDs. (Exhibit 5) The Commission thus should not restrain unduly the superstation programmers by precluding many common business practices exercised in a competitive marketplace, especially where the superstations are so widely available.[5/]

The issue most important to Congress was the "incentive and ability" of vertically integrated programming suppliers to favor affiliated cable operators over other multichannel distributors. "It is the policy of Congress...to...ensure that cable operators do not have undue market power vis-a-vis video programmers and consumers." 1992 Cable Act § 2(b)(15). Because Section 628 applies in various parts to all satellite broadcast programming vendors, including superstation programmers, whether or not vertically integrated with cable interests, and whether or not possessing any "market power," the Commission should regulate or proscribe only conduct that vertically integrated entities would pursue, and exempt non-vertically integrated superstation programmers from the regulations promulgated under the section.[6/]

5/ Although condemning certain practices of vertically integrated programmers, Congress specifically found that vertical integration in the cable industry was beneficial because vertical integration contributed to the deployment of a substantial amount of new programming. House Report at 41.

6/ NPRM ¶ 8, n.19. This suggestion likely will raise a hue and cry from a certain HSD distributor who has its own axe to grind with the superstation programmers, as will be shown below. The superstation programmers do not possess the req-

[Footnote Continued Next Page]

At a minimum, Commission regulations should allow non-vertically integrated satellite broadcast programmers -- programmers with limited or de minimis interests in cable -- considerable latitude in determining the terms of their business relationships with various multichannel programming distributors operating in different segments of the programming markets. The business of distributing superstation programming is very different from that of satellite cable programming. There have been absolutely no restrictions or limitations on entry by any interested party into the national superstation programming services market.[7/] Market entry only requires the necessary (but substantial) investment made by any satellite programmer in (a) up-link equipment, (b) transponder lease, and (c) administrative items like customer service and marketing. Anyone seeking to avoid that investment must necessarily pay any of the several existing superstation programmers for the right to market that programming

[Footnote Continued]

uisite market power nor the ability or motive to favor FBOs over HSD distributors or otherwise act anti-competitively. Because the vertical integration issue was the "hot" button for this section of the 1992 Act, the Commission should only focus on preventing "favoritism" for cable affiliates.

7/ The essential distinctions between "cable network" and "superstation" programming are set forth in Exhibit 1. Moreover, there are currently five superstation programmers providing 16 superstations to FBOs and HSDs. Exhibit 2. Six of these superstations are "duplicated" and carried by a sixth programmer on K-band frequencies. Id.

to consumers. However, satellite cable programming services (e.g., other than superstations) are often proprietary to the vendor, and thus others are excluded from selling or duplicating that programming.

As sought in the NPRM, NPRM ¶ 8, appropriate implementing regulations should respect these differences and accord significant flexibility to superstation programmers which have no legal right or ability to exclude or restrain competition in the superstation programming market. Moreover, the noted differences between the vendors and their related functions also justify different treatment (NPRM ¶ 8 at n.20).

Other distinctions in the programming markets also are evident. For example, the distribution of programming to FBOs is very different from distribution in the HSD market. Unlike FBOs, distributors in the HSD market (1) have much lower overhead, (2) no investment in facilities to deliver programming, and (3) function more as salesmen, performing only sales functions in the programmers' delivery of programming to HSD owners. Exhibits 3 and 4. Unless carefully distinguished in the implementing regulations, some HSD distributors may obtain rights under the statute that will distort the markets by treating them similarly to dissimilar distributors, or by requiring uniform pricing not reflecting the essential differences between these distributors.[8/] While some HSD distributors will propose pricing to

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8/ The unique costs attributable to and essential differences among the three classes of FBOs are discussed in United

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increase the HSD distributor's profits, it will decrease product margins for programming vendors to the point that the availability of programming will be reduced, and diversity limited, by the failure of many of the existing superstations to remain profitable. As it stands now, the HSD market is growing and the HSD consumer actually is paying less for programming than a similarly situated cable consumer.[9/] Because programming availability to the consumer is the touchstone, the Commission should be wary of adopting any regulations that may adversely impact that availability.

For these reasons, the Commission should avoid any attempt to micromanage the operations of video programming vendors. While "benchmarks" for pricing and penetration sound attractive in theory, they will be difficult to administer given the wide range of business operations to be covered, and presence of many non-price factors impacting any FBOs or distributor's success or failure in the marketplace. Benchmarks thus will not

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[Footnote Continued]

Video's comments in this proceeding. Here we only note that those differences preclude any uniform pricing across the board for FBOs and HSD distributors.

9/ Exhibit 6 depicts the price comparison showing that HSD owners actually pay less for their programming than the average cable subscriber. Exhibit 7 depicts the rapid growth of the HSD market which also demonstrates that superstation pricing could not in any sense be impeding growth.

produce the intended result of maximizing consumer availability of programming. In the absence of any demonstrated anticompetitive conduct or actual harm to consumers, the Commission should allow the marketplace to operate free of unnecessary restraint and not favor the profit margins of particular distributors to the detriment of the program vendors and the public. At a minimum, to be true to congressional intent, the regulations must recognize the essential distinctions between the various programming vendors and distributors.

II. BACKGROUND

A. History of Superstation Distribution

United Video has delivered television and other signals via terrestrial microwave to cable television systems since 1965. In 1978 the Commission authorized United Video, pursuant to Section 214 of the Communications Act, to distribute WGN-TV via satellite to cable television systems throughout the United States. Following the Commission's deregulatory decisions in the Competitive Carrier Rulemaking Proceeding in Docket No. 79-252, United Video and other carriers began distributing additional "superstation" signals and various other services by satellite. For FBOs such as cable, MMDS and SMATV operators, United Video provides a satellite transmission service, which is used by the cable operator for delivery of uncopyrighted superstation signals, selected by the cable operator, to the cable system's headend satellite receiving dish, so that each FBO then can reprocess and retransmit the signal to its subscribers over the FBO's own facilities.

Program distribution to the home satellite dish ("HSD") market was conceived and developed well after service to FBOs had been established. Superstation distribution to the HSD market thus created an entirely new market for programming. This market was essentially a "retail" market; programming was sold directly to consumers and no facilities-based intermediaries were (or could be) part of the programming delivery process. In March 1987, United Video began selling superstation programming to the HSD market, first under its own name, and subsequently under the name of Superstar Connection.[10/] When United Video began selling to HSD's in 1987 there was no HSD market and there were no HSD subscribers. The risk United Video took by investing in the necessary sales, authorization and customer service facilities occurred before any revenue streams from HSD even existed.[11/]

10/ Operating first as a division of United Video, Superstar became a joint venture and then a general partnership. Superstar is now a corporate entity owned by UV Corp., United Video's corporate parent.

11/ Previously, HSDs paid nothing for all unscrambled signals they were able to receive. With the advent of scrambling, it could not be predicted whether HSD owners would pay for signals actually received or simply try to pirate the signals. Initially, equipment dealers and distributors refused to be part of the process, thus leaving Superstar with no option but to establish its operations and to sell directly

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In this proceeding, the Commission has noted that the term "multichannel video programming distributors" may include all types of distributors, and sought comments on the propriety of the definition. NPRM ¶ 6, n.13. The Commission must distinguish not only between types of distributors, but account for different technologies and markets in which they operate.[12/] As will be shown below, many distributors' own business operations vary dramatically depending on the markets in which they operate.[13/] For example, cable operators must pay copyright fees for

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[Footnote Continued]

to consumers. As demonstrated in a number of the Commission proceedings, piracy continued to be rampant, and can only be solved by the perseverance and vigilant initiatives of program providers. The recent institution of the VideoCipher II Plus decoder with a new and more secure authorization process is evidence of this persistent vigilance.

12/ For example, cable operators cannot "sell" services to MMDS subscribers, and HSD distributors only can perform an authorization function for programmers selling to HSD consumers; no HSD distributor is functionally capable of delivering any service directly to any HSD consumer, let alone to any cable or MMDS subscriber. Although these functional differences do exist, the various FBOs and HSD distributors do provide competition to cable operators for purposes of "effective competition." Section 3, 1992 Cable Act. The end-product (TV signal) does not make all the FBOs and HSD distributors "fungible" for pricing purposes, however.

13/ The Commission quoted a valuable exchange between Senators Inouye and Kerry at the time the 1992 Cable Act passed. NPRM ¶17, n.37. Senator Inouye, one of the major proponents of the 1992 Cable Act, acknowledged different profit margins for different distributors and that such differences could account for distinct treatment under the statute. Id.

all superstation signals as well as pay exorbitantly high fees if they distribute more than two superstations on their systems. Accordingly, there is substantial competition among the six superstation vendors to fill those two slots with one of the 16 superstations services. In the HSD Market, no such limitations from the distributor's perspective exists.

B. Differences In Cable and HSD Operations

United Video sells superstation transmission service to 15,000 cable, SMATV and MMDS operators throughout the United States. These entities, in turn, market and distribute superstation programming along with a number of other transmission and programming services to more than 30 million subscribers in various configurations and packages.

Superstar, on the other hand, provides copyrighted programming services not to any distributor, but directly to owners of HSDs throughout the United States. Superstar provides services and programming to the HSD market in two distinct ways with certain variations on each. Superstar's own employees market, bill and collect for superstation service directly to more than 111,000 individual HSD subscribers throughout the United States. These subscribers purchase superstations, as well as other programming, to which Superstar has acquired distribution rights (e.g., HBO, Cinemax Sports, CNN, etc.) by direct authorization by Superstar through its office in Tulsa, Oklahoma. As set forth in more detail below, these essential marketing differences make price comparisons in the superstation distribution market somewhat difficult. Nonetheless, we will examine the relative cable and HSD consumer prices (and HSD subscriber growth) to demonstrate that the markets have developed well without regulation.

1. HSD Distribution Business

Superstar offers various packages to individual subscribers in the HSD market. Prices for these packages, which may also include additional pay/premium movie services such as HBO or Cinemax, are routinely distributed to the public by brochures and other promotional materials indicating the prices for the various services and packages.[14/] These prices are not subject to routine negotiation and generally are adhered to by sales representatives at Superstar's back office. These prices do, however, change from time to time, depending on marketing strategies.

The marketing of HSD services is critical. While the cable market has matured somewhat, the full extent of HSD's competition to cable still is emerging and the number of entities

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14/ These packages include: "Superstar Ultimate", "Sports Pack", "Superstar Magnificent Seven", "SuperSelect," "SuperSelect West," "Superstar G-5 Pack," "Superstar Movie Pack", "Super View" and "Super View Plus. These packages include one or more of Superstar's own superstations and can also be supplemented at a discount package price, with various premium pay and other superstation services, for 25 differently priced service packages. Prices range from less than $8/month to $61/month (with six premium movie services).

competing for the much smaller universe of HSD subscribers makes marketing and advertising critical to the success of any HSD programming service.[15/] All of the programmers' advertising efforts and initiatives benefit all distributors of the service by increasing consumer awareness and creating demand for the services.

In addition to individual sales by Superstar's employees, Superstar Connection has contracts with more than 2,000 independent distributors, including satellite equipment manufacturers, satellite equipment distributors, satellite equipment dealers, cable operators, program packagers and other cable and superstation programmers who, in turn, sell various packages (including Superstar's packages and other competitors' packages) to HSD owners. These sales cover an additional 672,000 subscribers and thus more than 780,000 consumers in total are served by Superstar.

The term "distributor" is used broadly to include those sales agents who merely refer subscribers to Superstar, as well as those who have a more direct involvement in the ordering and

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15/ As of May, 1992, there were an estimated total of 92 million television households, 77 million cable homes passed, and 51 million cable subscribers. NCTA "Cable Television Developments," May, 1992. The legitimate HSD market stands at just over 1 million and, while continuing to grow, may never reach the same level as cable. An estimated additional 2 million unauthorized dishes continue to pirate programming.

authorization process for delivery of Superstar's services. Determination of rates, and terms and conditions of contracting with distributors is complex and not subject to rate schedules or even assured availability. Each distributor may bring unique capabilities to marketing various signals or packages, and may offer access to other programming services. These distributors' diverse abilities and negotiating strategies are part of the process of establishing the terms and conditions of the contractual relationship.

In addition, because of the varying configurations of Superstar distributors, Superstar provides its services to HSD distributors in a variety of ways, but all are essentially one type of service. Program packagers, as well as all other HSD distributors, are provided the opportunity to authorize service, either directly or indirectly, and to bill and collect for the service. This capability (and thus participation by distributors) is made possible by the funding and establishment of General Instrument's computerized direct broadcast satellite authorization center (the "DBS Center"). Programming vendors such as Superstar purchased tier-bits at the DBS Center, agreed to substantial contingent liabilities at start-up, and provided access (directly or indirectly) to its tier-bits at the DBS Center to allow subscriber authorizations to be made through the DBS Center. The DBS Center is connected by a separate uplink and VSAT dish to the uplinks for the superstation signals.

The DBS Center's service is part of the authorization process for delivering programming services to the HSD market. Superstar utilizes General Instrument's VideoCipher II Plus scrambling system to scramble its signal and, through the DBS Center, has a nationwide multichannel subscription service for consumers owning HSD dishes. The DBS Center operates all computers, software and peripheral equipment to provide a descrambler database and data channel containing descrambler authorization and other data ("data channel") that is sent simultaneously to each VideoCipher II programmer uplink. The data channel contains the thousands of unique authorization codes representing each addressed HSD consumer.

At the DBS Center a separate data stream of authorization codes is created, which data stream receives inputs from Superstar and distributors with tier-bit access. This data stream (for all services included in the DBS Center) is uplinked at the DBS Center by an antenna dish to a leased transponder, and to VSAT-receive dishes at the superstation uplinks, where other equipment receives and decodes the signal and then multiplexes this separate data stream with the cable data stream to be uplinked with the superstation audio and video signals.[16/]

16/ Different monthly codes or "keys" are communicated to the FBO commercial descrambler and HSD residential descrambler universes. Two completely different authorization data streams are created, and the HSD data stream provides for certain unique capabilities such as tier-bit text messages, including program name and duration. Individual text messages also can be sent to particular HSDs.

Because HSD owners add or delete services on a daily basis, there are potentially thousands of authorizations needed each day to accommodate the changing tastes and payment schedules of the individual HSD subscribers. These authorizations must take place regardless of whether the customer purchased a subscription directly from Superstar or through a distributor. The entire method of "authorization control" is thus different for serving cable operators and HSDs.

2. HSD Distributors Act as "Agents" of the Programming Vendors

Superstar authorizes distributors to sell to HSDs access to Superstar's programming service(s) as part of that distributor's package, but at no time is any programming service or signal provided or transmitted to any HSD distributor. HSD distributors merely authorize, by telephone, facsimile, or computer data entry, through a port at the DBS Center. The authorization data then is inserted by operation of the equipment at the DBS Center into a data channel, which is separately uplinked and delivered by satellite to each superstation uplink, where again the whole signal is uplinked by the satellite carrier for distribution to the HSDs. The ability to enter authorizations into this data channel or "stream" of authorizations for HSD decoders is the essential privilege Superstar grants to HSD distributors.

In effect, most HSD distributors only act as "sales referral agents" providing names and addresses of customers to be served. As others become more involved in the authorization process, the service provided by distributors is one more of authorization, billing and collection for the programmer's services. At no time does any HSD distributor have the responsibility, or the ability, to receive or deliver any programming service to any HSD subscriber. Whether the HSD distributor is merely a "sales refusal agent" or is more involved in billing, collection and authorizations, access to the authorization data channel is the maximum extent to which any distributor is involved with the delivery of signals to HSDs.

Superstar thus delivers programming directly to HSD consumers. Superstar markets programming in two ways: by direct sales by it own employees, and by indirect sales by distributors. When a programming vendor operates on two levels of distribution by selling programming directly to HSDs, as well as indirectly through distributors, this hybrid relationship is similar to that analyzed under the antitrust laws as "dual distribution." The arrangement is analogous to one in which a franchisor operates an outlet himself and thus in a sense "competes" with his franchisees in the same area. However, under dual distribution, although the satellite carrier "competes" (in a non-economic sense) with the dealer or distributor who is reselling the vendor's programming, courts have recognized the dual distribution relationship to be one of "principal-agent" rather than one of direct competitors:

> When a producer elects to market its goods through distributors, the latter are not, in an economic sense, competitors of the producer even though the producer also markets some of its goods itself; rather the distributors are "agents" of the producer, employed because the producer has determined that it can supply its goods to consumers more efficiently by using distributors than it can by marketing them entirely by itself.

Red Diamond Supply, Inc. v. Liquid Carbonic Corp., 637 F.2d 1001, 1005 (5th Cir. 1981) (emphasis added), cert. denied, 454 U.S. 817 (1981). We recognize that these laws apply to "goods" not "services" and thus many additional distinctions can and should be drawn.

Notwithstanding, this important difference, meaningful comparisons can be made. Here, the HSD distributor serves as the carrier's "agent" or "salesman." Because carriers are able to deliver programming to HSD homes without these intermediaries, third-party program packagers and distributors for the most part are "add-ons" to the programming distribution chain and play even less of a role than the "distributors" in Red Diamond. Even with those distributors, the manner in which the carriers do business should be left to the marketplace.

> Competition is promoted when manufacturers are given wide latitude in establishing their method of distribution and in choosing particular distributors. Judicial deference to the manufacturer's business judgment is grounded in large part on the assumption that the manufacturer's

interest in minimum distribution costs will <u>benefit the consumer</u>.

<u>Krehl v. Baskin-Robbins Ice Cream Co.</u>, 664 F.2d 1348, 1356-57 (9th Cir. 1982) (emphasis added), <u>quoting</u> <u>A.H. Cox & Co. v. Star Machinery Co.</u>, 653 F.2d 1302, 1306 (9th Cir. 1981).

In fact, dual distribution arrangements in the HSD market arose for precisely the reason espoused in <u>Krehl</u> -- so that carriers could market and supply their programming to HSD customers more efficiently. It simply is good business judgment to utilize third-party packagers. Consumer use and competition can be maximized with as many commissioned salesmen as the market will support. The carrier may maximize the number of customers (and product acceptance) by providing for as many salesmen as possible receiving "commissions," <u>i.e.</u>, discounts from the retail rates. Indeed, for Superstar, this has worked extraordinarily well. Of the almost 800,000 HSD consumers receiving Superstar's superstation programming, more than 600,000 are sold by HSD distributors. Accordingly, the "dual distribution" system proves how well the market is working.

3. Back Office Costs and Distributor Discounts

Superstar also maintains extensive "back office" operations to serve its HSD customers' needs. The manner in which Superstar's back office operations serves Superstar customers varies. Superstar has routine and regular contact with its direct customers. Because satellite equipment dealers, satellite equipment manufacturers and satellite equipment distributors possess no back office facilities for servicing HSD subscribers, Superstar maintains routine and regular contact with this group of customers as well. Tier-bit distributors that possess back offices generally do not maintain 24-hour service, as Superstar does. In many situations customers of these tier-bit distributors call Superstar's back office for service and related questions. Many tier-bit distributors even direct their customers to make calls to Superstar.

Superstar's rates charged to HSD distributors for reselling Superstar's programming services are lower than the rates charged individual HSD users, thus enabling the distributor to earn a commission for marketing the subscriptions to the HSD users. Essentially, the HSD distributor receives a discount from the rates charged individual subscribers. The extent of these discounts for HSD distributors depends on a number of factors, including the following:

- o costs, types, and availability of competing programming;
- o satellite locations;
- o volume;
- o costs of detecting and eliminating piracy;
- o copyright costs;
- o administrative costs;

- fixed costs;
- variable and overhead costs;
- DBS Center obligations;
- costs of DBS Center-related equipment;
- markets for Superstar's programming;
- types, number and style of program packaging
- current promotions;
- marketing programs and marketing strategy;
- authorization procedures;
- customer service requirements;
- software development and support; and
- training.

It would be essentially impossible to quantify each of these factors and translate them into some objective range of discounts; suffice it to say substantial discounts are given to encourage distributor participation in marketing programming, and distributor participation has indeed been significant.

4. Differences in Distribution to Consumers Through Facilities Based Operators

The services United Video provides to FBOs are, in fact, quite different from the services provided to the HSD market. United Video provides cable, SMATV and MMDS operators with a satellite transmission service, delivering a superstation signal without copyright clearance to the headend's satellite